

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2517 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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SARVODAYA KELVANI MANDAL

Versus

STATE OF GUJARAT  
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Appearance:

MR BM MANGUKIYA for Petitioner  
MR RM DESAI for Respondent No. 1  
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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 05/05/2000

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, the petitioner has challenged the decision of the respondent authorities particularly respondent No. 3 - District Education Officer, Kheda District to recover the grant for payment of salaries to A.H. Khant and R.M. Jaiswal who were appointed by the petitioner school management as Assistant Teachers in their Higher Secondary Classes for the year 1987-88.

2. It is submitted in the petition that the

appointment was approved by the authorities earlier and that, therefore, obviously such an objection could not have been raised. Even so, it appears that there was some objection regarding the academic qualification of A.H. Khant i.e. the said teacher had not cleared the examination of M.A. Part-II and similar objection was raised in respect of Malivad Pratapbhai Kuberbhai. The attention of the Court is invited to a letter dated 12.9.1988 (Annexure "A" to the petition) from the Joint Director of Education (10+2 Cell) wherein it is stated that the appointment of Vankar Bhikhabhai Nathabhai and Jaiswal Rajeshkumar Mohanlal is approved and the appointment of A.H. Khant was approved only for the year 1988-89, as he did not possess the requisite qualification but he was making attempts to improve his qualifications. Similarly the appointment of Pratapbhai Kuberbhai Malivad was approved for the year 1987-88 only.

3. Having regard to the facts and circumstances of the case and particularly the passage of 11 years after filing of this petition and the absence of any affidavit in reply or any effective representation on behalf of the respondent authorities and also having regard to the fact that while admitting the petition on 13.7.1989, this Court had granted interim relief restraining the respondents from withholding the grant towards salaries of the teachers named R.M. Jaiswal and A.H. Khant for the year 1987-88 and this Court had also restrained the respondents from withholding the grant for the year 1987-88 payable towards other admissible expenses and directed them to pay the same forthwith, it appears to the Court that interests of justice would be served if the petition is disposed of with a direction that if the concerned teachers whose academic qualifications were found to be wanting at the relevant time have obtained the requisite qualifications by now, the impugned orders shall not be acted upon. However, if the concerned teachers have not obtained the requisite qualifications by now, the impugned orders must be permitted to operate.

4. Accordingly the petition is disposed of in terms of the aforesaid direction. Rule is discharged.

May 5, 2000 (M.S. Shah, J.)  
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